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Letter dated 5 July 2017 from the Chargé d'affaires a.i. of the Permanent Mission of the Russian Federation to the United Nations addressed to the Secretary-General and the President of the Security Council

I have the honour to transmit herewith information on the Russian assessment of the status of the investigation into the incident at Khan Shaykhun (4 April 2017) and the relevant report of the Organization for the Prohibition of Chemical Weapons (OPCW) fact-finding mission in the Syrian Arab Republic.

I should be grateful if you would circulate this letter and its annex as a document of the Security Council.

(*Signed*) P. **Iliichev**
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Annex to the letter dated 5 July 2017 from the Chargé d'affaires a.i. of the Permanent Mission of the Russian Federation to the United Nations addressed to the Secretary-General and the President of the Security Council

The Russian assessment of the status of the investigation into the incident at Khan Shaykhun (4 April 2017) and the related report of the Organization for the Prohibition of Chemical Weapons fact-finding mission on chemical weapons in the Syrian Arab Republic.

The Russian Federation unequivocally condemns the use of chemical weapons by any person in any place. It is our conviction that the perpetrators of such crimes must be identified and duly punished. The Organization for the Prohibition of Chemical Weapons (OPCW) fact-finding mission in Syria and the OPCW-United Nations Joint Investigative Mechanism were established for this purpose. The fact-finding mission is called upon to determine, from the factual and scientific and technical evidence, whether toxic chemical substances were used and, if so, which ones and how; the Joint Investigative Mechanism is tasked with identifying the organizers and perpetrators of these crimes.

We see quite a number of issues here, some of which are very serious. One of them is the stark reality of the investigation into the heinous chemical incident on 4 April 2017 in Khan Shaykhun, Idlib governorate, which served as a pretext for the United States missile attack on the Sha'irat airfield in Syria, carried out in violation of the Charter of the United Nations and the universally recognized norms of international law. The conclusions that we have reached over the three months since the incident occurred are set out below.

First, the experts of OPCW and the Joint Investigative Mechanism have not visited Khan Shaykhun or the Sha'irat airfield. According to the administration of the OPCW Technical Secretariat, the fact-finding mission's inspectors could not travel to Khan Shaykhun because of the security risks involved. It is claimed in The Hague that such a visit would go beyond the mandate of the mission. It is clearly appropriate to recall paragraph 12 of the terms of reference of the fact-finding mission, according to which: "The OPCW Team shall have the right of access to any and all areas which could be affected by the alleged use of toxic chemicals (...) For such access, the OPCW Team shall consult with the Government." This is precisely the case with regard to Sha'irat, especially as this airfield, according to the incessant insinuations of a number of States parties to the Chemical Weapons Convention, is allegedly directly involved in the use of chemical weapons in Syria.

The new leaders of the Joint Investigative Mechanism, in contrast, believe that they will be able to plan their own activities in relation to Khan Shaykhun and Sha'irat only after the publication of the final report of the fact-finding mission. Prior to the appearance of that document, however, they have also indicated that current scientific and technological methods make it unnecessary to travel to the site of the chemical attack. What about paragraph 6 of Security Council resolution 2319 (2016), in which the Joint Investigative Mechanism is invited to offer its services to OPCW for establishing whether chemical weapons have been used? What about paragraphs 3 and 4 of Security Council resolution 2235 (2015), which established the Mechanism, in which there is reference to the Council's determination to identify those responsible for stockpiling and retaining chemical weapons? And what should be done about paragraph 7 of the same resolution, in which there is an explicit reference to the need to provide full access to all locations that are relevant to the fact-finding mission's investigation? Damascus offered guarantees of such

access, at least in the case of Sha'irat, and invited the fact-finding mission and the Joint Investigative Mechanism to visit this site immediately after the tragic events in Khan Shaykhun.

Second, the results of the investigations appeared surprisingly soon after the incident. They had been conducted by Turkey, Great Britain and France, which in itself raised many questions, and resulted in quite predictable and peremptory findings of guilt on the part of Damascus. For example, members of the OPCW Executive Council reported on the autopsies conducted by Turkish doctors, in which biochemical samples confirmed that three persons had died because of sarin gas. It is not clear which laboratory conducted the analyses, whether it had been certified by OPCW and whether the proper sequence of steps for collecting evidence (chain of custody) had been observed, in particular by whoever transported the deceased persons from the site of the chemical incident.

We would also like to know how it is that the French experts had already received samples that were allegedly taken directly at the scene of the event. If members of the French security forces had taken the samples themselves, then they must have had free access to the area that is controlled, according to the French report, by Syrian armed opposition groups associated with Al-Qaida. In that case, the mission experts could have conducted an in-depth interview with them and asked for additional clarifying information, as in the case of the Russian military personnel of the Radiation, Chemical and Biological Defence Forces who investigated the chemical incident in Ma'arrat Umm Hawsh.

If the samples were received in a different location, such as in the territory of a country neighbouring Syria, then Paris should immediately clarify that the samples studied were allegedly from the site of the incident. Accordingly, it is not possible to draw any specific and robust conclusions, or to determine who is responsible. We would also like to receive copies of these reports, both the Turkish report and the French and British report, so that experts from other States parties to the Chemical Weapons Convention can conduct a substantive study.

Third, why did these three States parties to the Convention, which have managed to obtain evidence, allegedly, of "another crime by the Assad regime" from the site of the chemical incident, not take advantage of the opportunity clearly available to the mission experts to have access to Khan Shaykhun? Especially as the Syrian forces had not only earnestly invited the fact-finding mission to visit the Sha'irat airfield, but were also ready to provide its experts with security guarantees on the route from Damascus to Khan Shaykhun, as far as the border of the Idlib governorate territory controlled by Government troops. Indeed, Security Council resolutions 2118 (2013) (para. 7), 2209 (2015) (para. 6) and 2235 (2015) (paras. 4 and 7) make provision for such cooperation with the fact-finding mission by opposition groups and States Members of the United Nations that have an influence on them. How can we comprehend such a lack of action combined with an inexhaustible desire to wholeheartedly condemn the lawfully elected authorities of Syria for any manifestation or recurrence of "chemical" terrorism in that country?

Let us now turn to the fact-finding mission's report on Khan Shaykhun. Without going into the rather obscure technical details, it must be noted that this document is, unfortunately, very biased in nature, as are the previous reports of the fact-finding mission on incidents involving chlorine gas. Reading the report leaves an uninformed reader with just one impression — that Damascus was responsible for the chemical attack in Khan Shaykhun. In this connection, what is the value of the detailed description in the words of numerous witnesses and victims of the events that took place in Khan Shaykhun on 4 April 2017 — against a background of sirens, the roaring of Syrian aircraft, the cracks and bangs of aviation ammunition

and the efforts made to save the victims, including in the medical facilities of a neighbouring country? The report also contains repeated references to the statements of two witnesses, who were presented by the Syrian authorities, and not by the opposition or by objectionable non-governmental organizations such as the "White Helmets", which are sympathetic to the opposition. Emphasis is given, not by chance but clearly intentionally, to the fact that the statements of those two witnesses are divergent, and support the version of an act of provocation by the militants and their foreign sponsors. Should we not seek the truth of the events in these same statements, which differ from the general picture that has clearly been orchestrated by the opposition and by NGOs sympathetic to the opposition? Perhaps we should first of all seek to investigate the "real estate agents" from an armed opposition group, who rented out a building for the storage of toxic chemicals, and the ambulances from a neighbouring country that removed the injured persons, perhaps as prearranged, from the scene of the chemical attack? In summary, this is a question on top of a question, but there have been no credible responses from the fact-finding mission. In this situation, the concluding statement, as in cases of earlier episodes "substantiated" by the fact-finding mission and the Joint Investigative Mechanism, allegedly involving the use of Syrian helicopters humming in the night sky at a great height with barrels of chlorine gas, is clearly the same — another "atrocity" by Damascus.

After the publication of the fact-finding mission's report on Khan Shaykhun on 29 April 2017, the immediate reaction by the United States Department of State in this context is quite significant — an investigation of this matter by the Joint Investigative Mechanism is not necessary, as the guilty parties — the Syrian authorities — have already been identified.

It is also surprising that, in the fact-finding mission's report on Khan Shaykhun, the experts continuously and repeatedly have recourse to an ambiguous interpretation of one of the basic requirements of the Convention concerning the sequence of actions to follow when collecting evidence and material witnesses at the site of a chemical incident (chain of custody). On the one hand, it was not possible to fully comply with these basic procedures (para. 3.46) owing to the inability to visit Khan Shaykhun; on the other hand, the photograph and video materials presented by the opposition and NGOs, together with the material evidence, provide "a good degree of confidence" in the chain of custody prior to their receipt by the mission's experts (para. 3.66). Moreover, in paragraph 3.9 it is openly admitted that no forensic analysis of the electronic records was carried out. That is, the abundance of materials that was handed over to the fact-finding mission by the opposition and NGOs was not subject to strict verification concerning the location, site and timing of the image or processing, or concerning the authenticity of signatures and seals, and the probability that the images had been staged, and so on. The same can be said in relation to the report's "innovations" concerning ornithology, flora and fauna, namely: who can demonstrate, and how, that the habitat of the birds and mammals whose remains were delivered to the mission, and also the leaves from green areas affected by sarin, is Khan Shaykhun and its surroundings, rather than other regions of Syria? We can predict the response: all the sources of the aforementioned abundance of information and testimony, as noted in paragraph 4.5, had been validated by the mission in cases of earlier "chlorine gas" incidents. In other words, it was the understanding of the OPCW experts that the sources had already been "verified".

Where does that leave us? The flawed practice of conducting remote investigations from comfortable resorts in a country neighbouring Syria has continued, and this actually enabled the mission's experts to react very swiftly to the tragedy in Khan Shaykhun by attending the autopsies of the deceased and

conducting tests on the victims who were brought there. There was no need to travel anywhere for other materials, as the materials were delivered literally to the residence of the mission's experts in a centralized way by members of the armed opposition and NGOs based in Idlib governorate and in that same neighbouring country.

Such a procedure is clearly quite satisfactory for the OPCW Technical Secretariat and was long ago adopted by a unit of the fact-finding mission when investigating earlier alleged "chlorine gas" incidents. Two visits to Damascus by another unit eventually served as a pretext for the leadership of OPCW to reject entirely the idea of sending the Organization's experts to the site of a chemical incident — why do that, they said, if even the samples obtained by Syrian soldiers at the site of the chemical incident and sent by them to The Hague proved the presence of sarin. Everything else, they said, is a matter for the Joint Investigative Mechanism.

However, no one is certain whether the experts of the Joint Investigative Mechanism will ever go to Khan Shaykhun or the Sha'irat airfield in order to determine how sarin was actually used in Idlib governorate, and whether it was sarin, according to the infamous "friends of Syria", that was used in the shelling or whether it was once again a large-scale act of provocation by militants similar to what happened in eastern Ghutah or other incidents involving chemical weapons that have been unwarrantedly attributed to Damascus.

To summarize. After a preliminary reading of the fact-finding mission's report on Khan Shaykhun, one thing is clear: sarin, or a similar chemical substance, was indeed used there. This is confirmed by analysis of samples from the site of the chemical incident that were received by the Syrian authorities. However, one important question remains unanswered — by whom, in what circumstances and how it was used. It will be impossible to establish the truth without a visit to Khan Shaykhun by the experts of the fact-finding mission and the Joint Investigative Mechanism, although the perpetrators and organizers of this horrific act of provocation have already done a lot of cleaning up and manipulation. An inspection of the Sha'irat airfield is still the priority, as this facility, allegedly the storage site for the sarin used in Idlib, continues to be of concern to certain States parties to the Convention.

Time will pass, and the true circumstances of this crime will come to light. In the meantime, however, as in the case of Iraq, devastating events may take place against the backdrop of the general situation in the Middle East. There are those who wish to make use of the continued relapses and incidents of "chemical" terrorism in the region for their own short-term military and political goals. The international community cannot allow such a course of events, which would be catastrophic for the region. This new phenomenon in the activity of many terrorist and extremist groups, which is rife in Syria and Iraq, thanks to the double standards and irresponsibility of some geopolitical actors, could spread beyond the Middle East region, and many, including those same actors, may encounter it in their own territory.

As for our assessment of the factual and technical elements of the fact-finding mission's report on Khan Shaykhun, we will be ready to share it with the OPCW Technical Secretariat, the Joint Investigative Mechanism and the United Nations Security Council when experts of the relevant Russian agencies have conducted a detailed study of the document.